UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE
JAN 0 9 2007
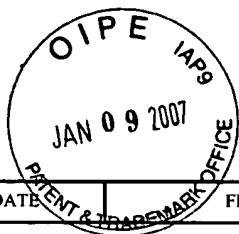
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,755	06/11/1999	STUART B. BERMAN	223/279	9796

7590   12/28/2006

David B Murphy
O'MELVENY & MYERS LLP
Suite 100
114 Pacifica
Irvin, CA 92618

EXAMINER
RYMAN, DANIEL J

ART UNIT	PAPER NUMBER
2616	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/28/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	09/330,755	BERMAN, STUART B.
	Examiner	Art Unit	
	Daniel J. Ryman	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 November 2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *50,51 and 53* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *50,51 and 53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 50, 51, and 53 have been considered but are

moot in view of the following ground(s) of rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 50, 51, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bennett et al (USPN 5,592,160), of record, in view of Gulick (USPN 4,809,269), of record, in

further view of Lowell (USPN 5,341,476), of record, in further view of Crayford et al. (USPN

6,151,316), of record.

4.   Regarding claims 50 and 53, Bennett discloses a method and a port control module (ref.

340) for use in a fiber channel switching fabric comprising (col. 4, lines 22-45): a fiber channel

input/output port for connection to a link (col. 1, line 57-col. 2, line 5), an encoder/decoder in

communication with the input/output port (col. 2, lines 37-63) where "encoding" and "decoding"

indicates the presence of an encoder/decoder, and a buffer (col. 2, lines 15-22 and col. 4, lines

39-45); where the module places received fiber channel data in the buffer before sending the data

to another module (col. 2, lines 15-18), and monitors the buffer for an overflow condition (col. 5,

lines 49-66) with an overflow buffer indicating a monitoring of an overflow condition. Bennett

also discloses buffer overrun prevention (ref. 436, overflow buffer) (col. 5, lines 58-66).

Bennett does not expressly disclose the inclusion of buffer overrun prevention logic

between the encoder/decoder and the buffer, wherein the buffer overrun prevention logic (i) sets

tag bits in response to an overrun condition and (ii) operates on the tag bits and not the data bits.

Gulick teaches, in a port controller, having buffer overrun prevention logic before the buffer (col.

30, lines 25-39). Since the buffer overrun prevention logic is before the buffer, an obvious place

to locate it would be between the buffer and the encoder/decoder. Gulick uses the buffer

prevention logic in order to signal the system to terminate a packet that has been corrupted by

buffer overflow through the use of tags, where the buffer overrun prevention logic operates on

the tag bits and not the data bits (col. 30, lines 34-39, where, during an overrun, "the last byte in

the FIFO is tagged as the last byte in the packet," which indicates that the tags are added to the

last byte, such that the buffer overrun prevention logic operates on tags and not data). It would

have been obvious to one of ordinary skill in the art of data communications to include buffer

prevention logic before the buffer and to tag words that overrun the buffer, by operating on tags

and not data bits, in order to signal the system to terminate a packet that has been corrupted by

buffer overflow.

Bennett in view of Gulick does not expressly disclose the buffer overrun prevention logic

tags, but does not terminate, words that overrun the buffer. Lowell discloses in a buffering

system that a variety of overflow buffer configurations are possible, including a "Reject" type of

buffering in which the newest data in the buffer is overwritten by the overflow data (col. 3, lines

31-33; col. 7, lines 4-25, esp. col. 7, lines 15-25; and col. 8, lines 50-66). It is obvious that by

using a "Reject" type of buffering that the port control module of Gulick is relieved of the need

to terminate packets. Instead, once an overflow is detected, the port control module simply needs

to flag the packets that are in overflow and pass the packets to the buffer where all overflowed packets will be terminated when a newer overflowed packet overwrites it. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have the buffer overrun prevention logic tag, but not terminate, words that overrun the buffer in order to relieve the prevention logic of the task of terminating the packet before it reaches the buffer.

Bennett in view of Gulick in further view of Lowell does not expressly disclose that the buffer overrun prevention logic sets tag bits to a unique value indicative of an overrun condition. However, Bennett in view of Gulick in further view of Lowell does disclose tagging a packet in order to signal the system to terminate a packet that has been corrupted by buffer overflow (Gulick: col. 30, lines 25-39). In spite of this, the tagging of Bennett in view of Gulick in further view of Lowell only signals the switching system rather than other network elements regarding the status of the buffer. Crayford teaches, in a switching system, using an overflow tag to signal other network elements regarding possible data loss due to the overflow (col. 12, lines 56-58). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the buffer overrun prevention logic set tag bits to a unique value indicative of an overrun condition in order to signal other network elements that the data packet could have been corrupted due to a buffer overrun.

5.   Regarding claim 51, Bennett in view of Gulick in further view of Lowell in further view of Crayford discloses that the buffer is FIFO (Bennett: col. 2, lines 60-63; Gulick: col. 30 lines 25-27; and Lowell: col. 7, lines 15-20).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.
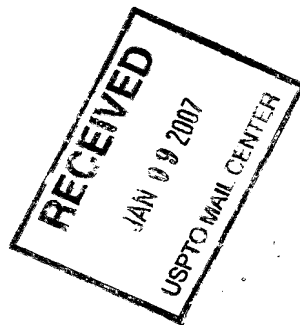
Daniel J. Ryman
Examiner
Art Unit 2616

RECEIVED
JAN 0 9 2007
USPTO MAIL CENTER

ONEL1114   9261091026 1606 52 01/04/07
     RETURN TO SENDER
:ONELVENY & MYERS
MOVED LEFT NO ADDRESS
     UNABLE TO FORWARD
     RETURN TO SENDER